BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

CLAUDE E. SMITH)	
Claimant)	
)	
VS.)	Docket No. 250,227
)	
JOHNSON COUNTY KANSAS)	
Respondent)	
Self Insured)	

ORDER

Claimant requests review of a preliminary Order entered by Administrative Law Judge Robert H. Foerschler on June 20, 2001.

Issues

The issues raised on review by the claimant include whether the Administrative Law Judge erred in failing to direct payment of medical expenses from an authorized treating physician and whether the Administrative Law Judge erred in failing to order temporary total disability benefits.

The respondent contends that claimant has not raised jurisdictional issues subject to review by the Board.

FINDINGS OF FACT& CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

At the preliminary hearing, the claimant sought additional medical treatment and temporary total disability compensation.

After conducting a preliminary hearing on June 14, 2001, Judge Foerschler entered a June 20, 2001, Order which concluded that physical rehabilitation would be an important element of claimant's further treatment. Accordingly, respondent was directed to provide

a consultation from that specialty, such as that department at KUMC, to see what recommendations that would yield.

It appears Judge Foerschler reserved his rulings regarding claimant's request for benefits until the consultation was performed and a report provided. Accordingly, the Board concludes Judge Foerschler took claimant's request for benefits under advisement to allow time for receipt of the physical rehabilitation consultation report. Because of the above conclusion, the remaining issues are rendered moot and need not be addressed.

In the event further proceedings are held after the consultation report is provided, the parties should note that, although mentioned by both parties, Dr. Holladay's purported letter dated April 16, 2001, was not included in claimant's exhibits to the preliminary hearing.

AWARD

WHEREFORE, the Board dismisses claimant's appeal, leaving the June 20, 2001, Order entered by Judge Foerschler in full force and effect.

II IS SO ORDERED.		
Dated this	day of September 2001.	
	BOARD MEMBER	

c: Dennis L. Horner, Attorney for Claimant Eric T. Lanham, Attorney for Respondent Robert H. Foerschler, Administrative Law Judge Philip S. Harness, Workers Compensation Director

IT IS SO OPPEDED